

RECORDS MANAGEMENT COMMITTEE
City Manager's Conference Room, 8th Floor, City Hall
400 Stewart Avenue, Las Vegas, Nevada
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.ci.las-vegas.nv.us>

July 20, 2001
1:30 p.m.

CALL TO ORDER: City Clerk Ronemus called the meeting to order at 1:39 p.m.

ATTENDANCE: Barbara Jo (Roni) Ronemus, City Clerk
Doug Selby, Deputy City Manager
John Redlein, Assistant City Attorney (Arrived 1:43 p.m.)
Joseph Marcella, Director, Information Technologies
Mark Vincent, Director, Finance & Business Services
Mary Ann Sosa for Richard Goecke, Director, Public Works
Sharon Kuhns, Records Administrator
Donna Willey, Administrative Secretary

EXCUSED: Radford Snelding, City Auditor

ANNOUNCEMENT MADE RE COMPLIANCE WITH THE OPEN MEETING LAW - Meeting noticed and posted at the following locations:

Downtown Transportation Center, City Clerk's Board
Senior Citizens Center, 450 E. Bonanza Road
Clark County Government Center, 500 S. Grand Central Pkwy
Court Clerk's Bulletin Board, City Hall
City Hall Plaza, Posting Board

(1:39)

1-1

BUSINESS:

A. APPROVAL OF FINAL MINUTES BY REFERENCE OF THE RECORDS MANAGEMENT COMMITTEE MEETING OF JUNE 29, 2001.

SELBY - Motion to APPROVE – MARCELLA - seconded the motion – UNANIMOUS with Snelding excused

(1:40)

1-22

**B. DISCUSSION AND POSSIBLE ACTION ON REVISION TO MUNICIPAL CODE
CHAPTER 2.60 RECORDS MANAGEMENT.**

Chair Ronemus stated that Chapter 2.60 of the LVMC was put into Bill format so it would be easier to make proposed changes. The last update of the LVMC was in October of 1988. Chair Ronemus suggested that under informational matters, the Committee can allow Ms. Kuhns to explain the issue of electronic records. Mr. Marcella stated that he sits on the NERC Committee and they will do the work.

Assistant City Attorney Redlein stated his concern about the definition of "Public record" in sub-section C of Chapter 2.60.010. Chair Ronemus advised that if the definition of "Public record" changes, then Chapter 2 of the Public Records Access Procedure must be brought back before the Committee for changes. If changes are made to the Code, then changes will have to be made to the sections, as well. Ms. Kuhns expressed concern regarding a term in section C, "except unused ballots". Chair Ronemus noted that this has not been researched yet. She stated that they can only be pulled with a State Court Order.

Assistant City Attorney Redlein displayed a publication titled, "Government Product News". He stated that different people in various departments throughout the City receive this publication. It is a basic catalog that by definition is considered a public record. It should be a judgment call for Larry Haugsness or Orlando Sanchez in Field Operations to consider whether to keep this publication and should not be included in the preliminary definition of a public record. Mr. Vincent read, "Does not include brochures, newsletters and magazines unless printed by a government printer". Chair Ronemus stated that this area needs clarification. Assistant City Attorney Redlein stated that in NRS, there is no definition of public record.

Assistant City Attorney Redlein copied phrases from a legal encyclopedia and read them to the Committee. He also read phrases from other states. He copied the one that contains the first part of LVMC sub-section C along with four alternative definitions of a public record and distributed it for discussion. He stated that if the definition is inclusive, exclusion will not be necessary. Mr. Vincent and Mr. Marcella agree that the third on the list is their preference.

Chair Ronemus mentioned the notes that the Clerk's office generates for minutes. She also talked about controversy regarding a public official's calendar and whether or not it was a public record. It was determined that it was not open to inspection.

Assistant City Attorney Redlein explained that in the federal system there is a definition of public record, but the federal freedom of information act and public records law are two different laws.

Mr. Vincent stated that what the Committee decides should be maintained for the purpose of performing a function. Chair Ronemus is concerned with the ownership of the property that does not reside within the City. There are a lot of documents received, such as accident reports. As Ms. Sosa stated, these reports are necessary to perform studies at different intersections of the City, but these documents belong to the Metropolitan Police Department (Metro). The City only receives a copy.

Mr. O. C. White, Traffic Engineer, organizes these reports geographically to make it easier for him to identify his problem areas and they are reviewed every 120 days. If a reporter is tracking the most dangerous intersections in the country and made a request to see all accident reports for a three-month period, Mr. White cannot recover the reports that occurred during this period unless he looks at every one due to the fact that they are not filed by date. It is a public record but it would cost the requester a huge dollar amount because of the labor that department would incur to accommodate this request. An alternative would be to refer them to Metro, who has these reports filed by date, for \$1 per page. Also, Assistant City Attorney Redlein stated that although it is a positive practice to monitor troublesome intersections, it should be done away with because if these reports are not read as soon as they are received to evaluate risk, there can be liability to the City. There is no law that requires Mr. White to keep a file.

Chair Ronemus inquired about confidentiality within these accidents reports. Assistant City Attorney Redlein responded that there isn't any information in them to be considered confidential. *He does, however, support the insertion of a phrase regarding confidentiality, such as; "Any record (not otherwise declared by law to be confidential)..." into the definition of a public record.* He also stated that he would work on a few variations of the definition for review by the Committee.

Deputy City Manager Selby inquired if the NAC definition of record and public record has any relevance to writing City code. Chair Ronemus pointed out that NAC also has a definition for non-record. Assistant City Attorney Redlein stated the NAC definition leaves out the element about necessary for carrying out business.

Assistant City Attorney Redlein stated that the Records Retention Schedule, as it is written, makes a simple cover letter to a citizen asking for a brochure, a public record. There would be no possible utility in retaining those letters and he prefers that they are not public record. Other cover letters could have significance, such as one mailed from the City Attorney's office referencing a discovery has been mailed. In this case, there is legal significance. These different documents should not be addressed in the Retention Schedule but rather preliminarily dealt with by definition of public record.

Ms. Kuhns noted for the record that the definitions in NAC have not been updated since 1983 and the definition of record was updated in 1996. They may be updated in the next legislative session along with the inclusion of electronic record definitions.

Assistant City Attorney Redlein stated that he would bring all definitions regarding public records, including the ones from NAC, to the next Records Management Committee meeting.

Chair Ronemus asked the Committee for an opinion on the definition of "Disposition" in sub-section A. *It was the consensus of the Committee to omit "Disposition".* Chair Ronemus read the definition of "Office" into the record. *Assistant City Attorney Redlein directed Ms. Kuhns to do a word search through the working document (Chapter 2.60 of the LVMC in Bill format) and bracket the word "Office" every time it is used and distribute copies to the Committee before the next meeting for review.* That would afford the Committee the opportunity to see how often "Office" is used throughout the document. Regarding sub-section D, Assistant City Attorney Redlein doubts whether the definition of "Records center" needs to be included. Ms. Kuhns stated that sub-section F, "Record series" needs to be more in line with NAC. Chair Ronemus stated that Ms. Kuhns has been involved in sub-section G, "Vital records". Ms. Kuhns noted for the record that the definition of "Vital records" is fine as it is. *Assistant City Attorney Redlein directed Ms. Kuhns to do a word search on "Vital records" to determine why vital records is defined in ordinance and in the Retention Schedule.* Chair Ronemus suggested that it may be appropriate in code because we are dealing with reconstruction of functions.

Chair Ronemus read Chapter 2.60.020 sub-section A into the record. Assistant City Attorney Redlein asked why there would be an inventory of public records. Ms. Kuhns explained that that is how you create a retention schedule. *Mr. Vincent suggested the verbiage be, "Procedures for identifying and retaining". The Committee concurs.* Assistant City Attorney Redlein also inquired about why it would be the Clerk's responsibility to establish a records center and not the department's responsibility. Deputy City Manager Selby stated that it should be a City responsibility.

Ms. Kuhns stated that there is a fire code for records centers and what should be kept in them. There is also a section on a different agency code for the proper environment for the storage of electronic tapes, etc. There are many established codes that must be addressed in the development of a records center. Chair Ronemus stated the necessity for an overview on where records are stored. Assistant City Attorney Redlein affirmed that there is a big difference between supervising a center and the Clerk establishing a center. Chair Ronemus explained when this code was written, there was discussion about whether or not a records center should be centralized or decentralized. The City of Henderson is centralized, all under the City Clerk. The City of Las Vegas should be semi-centralized because there is a need for a records center to store inactive records to free up space in the departments. The ability for oversight of a centralized system by the City Clerk should be written into the code. Ms. Kuhns confirmed that records are now dispersed throughout the departments. Mr. Vincent commented that until the City has a records center, there is no need to define it.

Assistant City Attorney Redlein asked Chair Ronemus if she provides micrographics services to the departments as discussed in sub-section D. She answered in the affirmative. Mr. Marcella pointed out that multiple offices provide that same service. Chair Ronemus referenced sub-section C which addresses establishing a program to protect historical, archival and vital records. Assistant City Attorney Redlein acknowledged that establishing a program is different than establishing a records center. *He recommended that the City Clerk should establish protocol for a records center.* Mr. Marcella stated that this is happening out of IT and EOC. Deputy City Manager Selby asked what role the City Clerk has regarding vital records at this point in time. Chair Ronemus stated that it's the identification. Ms. Kuhns is training delegates on what vital records are and how they should be handled. Assistant City Attorney Redlein stated that this is an important issue that should be handled by the City Clerk or IT. Chair Ronemus advised that IT is dealing with electronic records and Tim McAndrews is dealing with the emergency process itself. Mr. Marcella recommended that Chair Ronemus establish guidelines and that is what the departments will follow. He explained to the Committee that there are three issues. There is an IT contingency plan in the event that the system goes away. In this case, electronic records must be preserved off site as well as manuals and vital information that is key to recovery. There is a business resumption plan, which means that each department, after a disaster, must get their vital records back to resume business. Lastly, there is the EOC under emergency circumstances, which may not have anything to do with IT or any other department.

Mr. Vincent suggested possibly splitting responsibility for a functional organization or committee that deals with vital records separate from archival and historical. Ms. Kuhns explained that there are two different types of records in an emergency. You have documentation of the emergency so you can recover costs with FEMA and you have other documents to reestablish and get your operations up and running. They must be identified for the contingency plan and is best left as part of the records delegate training. Chair Ronemus concurred.

It has been decided that the members of the Records Management Committee are comfortable with the make up of the Committee and that the word "his" should be removed from all sub-sections in 2.60.030.

Deputy City Manager Selby inquired why it was necessary to declare the Records Management Committee meetings as public meetings under the Open Meeting Law due to the effort and expense of setting up recording equipment and scheduling a staff person to take minutes, when there isn't any interest from the public. Chair Ronemus explained that the public might not be aware that the committee exists and interest may be sparked after the resolution goes before City Council. He also asked if the ordinance was written properly, would the Committee need to write a resolution. Assistant City Attorney Redlein and Chair Ronemus concur that a resolution is easier to modify.

2.60.050 Duties of Department Directors – Mr. Vincent stated that an inventory (sub-section A) is for identification for the purpose of compiling and deciding what type of record and what the retention should be. It has been decided that vital records be included as the Director is charged with establishing guidelines. *Assistant City Attorney Redlein stated that he would write something that will combine sub-sections A and B.*

Chair Ronemus read into the record sub-sections C and D and acknowledged that sub-section C has been added since the code. *Assistant City Attorney Redlein made note of a typo, an extra space to be removed after the word, “program” in sub-section C.* The Committee concurs that directors will sign off on all retention schedules. Deputy City Manager Selby asked if the directors should forward the approved retention schedules to the Committee. Chair Ronemus asked if the Committee is going to submit the schedules or is the department responsible for that. In existing code, it is the responsibility of the Committee to approve or modify all retention schedules before they are presented to Council. *The Committee concurs that directors will approve the departmental retention and disposition schedules and forward them to the Records Management Committee. The Committee will then submit to Council.*

Chair Ronemus stated that if a records center exists, there should be clear direction as to who maintains control after records are submitted to the center. She advised the Committee of a situation with a previous Clerk who gave original minutes to UNLV. The City was unable to get them back due to custody and control being state law. The transferring office may still own the records, regardless of who oversees the center. *Assistant City Attorney Redlein pointed out that since the City does not have a building to call a records center, the language in 2.60.060 could say that each department has custody and control of all material in it.* He stated that a records center should be established only after Chair Ronemus or the Committee has reviewed and approved the appropriate storage. Directors should not still be in control after the records are in a records center. *Deputy City Manager Selby suggested that under 2.60.050 Duties of department directors, add in the responsibility for proper storage. Assistant City Attorney Redlein added that directors are to take measures for proper storage of records and those measures are to be reviewed and approved by the City Clerk.*

Chair Ronemus acknowledged that the Committee has not defined City Archives. Ms. Kuhns stated that an archive holds not only records but artifacts as well. *Deputy City Manager Selby suggested adding verbiage to 2.60.060 sub-section A that states upon establishment of a central city archive, records remain under the control of the department.* It would act as a condition if the records center comes to pass. Chair Ronemus read sub-section C into the record and made note of a typo in the second sentence. The word *oe* should be *or*. She stated that it is a good idea to have it written into the code that the City owns the records. *Assistant City Attorney Redlein suggested making the last sentence of sub-section C its own section that says, “The unauthorized destruction or removal of a public records is prohibited by state law and municipal code.* Chair Ronemus stated that the language in sub-section E is in the procedure itself and inquired if it should be part of the code. *The Committee concurs that it should be part of the code. Assistant City Attorney Redlein stated that the verbiage “generated or maintained” should replace “maintained or kept”. He also recommended using the word, “duty” instead of “obligation or responsibility”.*

Chair Ronemus declared that 2.60.070 addresses Municipal Court. Assistant City Attorney Redlein asked why exclude the Courts. Chair Ronemus also questions why this section exists, as Municipal Court is the same as any other department. If they are exempt, then this section needs to state so. *It has been decided that Keith Gronquist be invited to a Records Management Committee meeting for input.*

Regarding sub-section C of 2.60.070, Chair Ronemus believes that the Committee should approve the departmental schedules and forward them to City Council with a recommendation for adoption. Mr. Vincent clarified that Ms. Kuhns would approve them and only bring conflicts to the Committee.

Assistant City Attorney Redlein directed Ms. Kuhns to underline and bracket issues that were decided on during today's meeting, help the Committee with definitions to see how they are used through the code and advised her that he will be available for a meeting with her after Monday of next week. He requested this information be distributed a few days before the next Records Management Committee meeting.

(1:40 – 3:54)

1-38

C. INFORMATIONAL MATTERS FOR FUTURE RECORDS MANAGEMENT COMMITTEE AGENDAS.

Mr. Marcella will have a status report on what's happening with the NERC Committee and electronic records at the next Records Management Committee meeting.

The next Records Management Committee meeting is August 10, 2001.

(3:54 – 3:55)

2 - 1477

CITIZENS PARTICIPATION:

None.

ADJOURNMENT:

SOSA - Motion to ADJOURN – SELBY - seconded the motion – UNANIMOUS with Snelding excused

The meeting adjourned at 3:55 p.m.

/dw